

ROB BONTA, State Bar No. 202668
Attorney General of California
JOANNA B. HOOD, State Bar No. 264078
Supervising Deputy Attorney General
NECULAI GRECEA, State Bar No. 307570
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1230
Telephone: (213) 269-6443
Fax: (916) 761-3641
E-mail: Neculai.Grecea@doj.ca.gov
Attorneys for Defendants
R. Recarey, L. Bird, and K. Allison

BENJAMIN M. RUDIN, State Bar No. 292341
3830 Valley Centre Dr., Ste. 705, PMB 231
Tel: (858) 256-4429
E-mail: ben@benrudin.law
Attorney for Plaintiff
Kevin Hagan

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KEVIN HAGAN,

Plaintiff,

v.

RAUL RECAREY, et al.,

Defendants.

1:22-cv-00562-AWI-EPG (PC)

ORDER RE: JOINT STIPULATION RE:
THIRD AMENDED COMPLAINT AND
CASE DEADLINES

(ECF No. 24).

WHEREAS, on May 9, 2022, Plaintiff, initiated this lawsuit by filing a Complaint alleging Eighth Amendment violations against Defendants R. Recarey, L. Bird, and K. Allison (“Defendants”) (ECF No. 1);

WHEREAS, on May 11, 2022, the Court ordered the parties to attend a formal Scheduling Conference on September 13, 2022 (ECF No. 4);

WHEREAS, on May 16, 2022, Defendants filed their notice of intent to waive service (ECF No. 11);

WHEREAS, on June 13, 2022, the Court issued an Order re: Early Settlement Conference, requiring that the parties meet-and-confer about settlement and Defendants opt out of an early settlement conference, if necessary, by July 29, 2022;

1 WHEREAS, on July 14, 2022, the Court granted the parties' stipulation to modify deadlines
2 to enable Plaintiff to file his First Amended Complaint (ECF No. 15);

3 WHEREAS, on September 20, 2022, Plaintiff filed his First Amended Complaint (ECF No.
4 18);

5 WHEREAS, on September 26, 2022, Defendants requested that the Court screen the First
6 Amended Complaint (ECF No. 20);

7 WHEREAS, on January 6, 2023, the Court screened the First Amended Complaint,
8 dismissed Defendants, and provided Plaintiff the opportunity to file a Second Amended
9 Complaint (ECF No. 21);

10 WHEREAS, on February 2, 2023, Plaintiff filed his Second Amended Complaint and a
11 request for injunctive relief against Defendants H. Longia, J. Mevi, M. Son, and S. Gates (ECF
12 No. 22)¹;

13 WHEREAS, the parties have conferred and Plaintiff wishes to file a Third Amended
14 Complaint, removing Defendant S. Gates and adding Defendant C. Eskander, and renewing his
15 request for injunctive relief²;

16 WHEREAS, the Court would have to screen the Third Amended Complaint, issue
17 summons, find service appropriate, and direct e-service on the new defendants after the Third
18 Amended Complaint is filed³;

19 NOW, THEREFORE, the parties stipulate and agree to the following schedule to allow
20 Plaintiff sufficient time to prepare and file a Third Amended Complaint and Defendants sufficient
21 time to answer the same, including any renewed opposition to a request for injunctive relief:

22 1. Plaintiff shall file his Third Amended Complaint on or before May 23, 2023;

23 2. Defendants shall request screening of the Third Amended Complaint within fourteen
24 (14) days of its filing, and Defendants shall answer the Third Amended Complaint sixty (60) days
25 after the new defendants' notice of intent to waive service;

26 ¹ The Attorney General's Office, specially appearing on behalf of S. Gates, opposed the request for
27 injunctive relief. (*See* ECF No. 23.) The Second Amended Complaint is currently pending screening, but its
28 screening will be mooted by the filing of a Third Amended Complaint.

² Defendants reserve the right to oppose Plaintiff's request for injunctive relief.

³ As they have before, Defendants will request that the Court screen the Third Amended Complaint pursuant
to the Prison Litigation Reform Act. 28 U.S.C. § 1915A(a).

1 3. The Scheduling Conference is continued to a date to be determined by the Court at a
2 later time and by separate order;

3 4. The Parties' deadline to meet-and-confer regarding settlement and Defendants'
4 deadline to opt out of an early settlement conference are continued to dates to be determined by
5 the Court at a later time and by separate order.

6
7 Dated: February 24, 2023

Respectfully submitted,

8 ROB BONTA
9 Attorney General of California
10 JOANNA B. HOOD
11 Supervising Deputy Attorney General

12 /s/ Neculai Grecea
13 NECULAI GRECEA
14 Deputy Attorney General
15 Attorneys for Defendants
16 R. Recarey, L. Bird, and K. Allison

17 /s/ Benjamin Rudin
18 BENJAMIN RUDIN
19 Attorney for Plaintiff
20 Kevin Hagan
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ORDER

Based on the parties' stipulation (ECF No. 24), IT IS ORDERED that:

1. Plaintiff shall file his Third Amended Complaint on or by May 23, 2023;
2. Defendants shall request screening of the Third Amended Complaint within fourteen days of its filing and the Court will screen the Third Amended Complaint;
3. Defendants shall answer the Third Amended Complaint within sixty days after the new defendants are served and file their notice of intent to waive service;
4. The Court will issue a new Order Setting Mandatory Scheduling Conference; and
5. The Court will issue a new Order Regarding Early Settlement Conference pursuant to the Parties' Stipulation.
6. Further, upon screening the Third Amended Complaint, the Court will, if necessary, set a briefing schedule and a hearing for Plaintiff's request for injunctive relief.

IT IS SO ORDERED.

Dated: **February 28, 2023**

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE